

misleading and for the further reason that they were labeled so as to deceive and mislead the purchaser, since the said statements represented that the articles consisted of tomato paste and tomato puree; whereas they did not so consist but did consist of insufficiently condensed, strained tomato products made in part from tomato trimmings. Misbranding of the tomato paste and tomato puree was alleged for the further reason that they were imitations of and were offered for sale under the distinctive names of other articles, namely, tomato paste and tomato puree.

Misbranding of the canned tomatoes was alleged for the reason that the article was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since its color was not the naturally developed red of the mature red fruit of the tomato vine, as prescribed by said standard, and since it contained peel in excess of the maximum permitted by said standard, and its package or label did not bear a plain and conspicuous statement prescribed by regulations of this Department indicating that it fell below such standard.

On November 5, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$25.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

25282. Adulteration of butter. U. S. v. Perry J. Bradley and Vincent Michalak (Enterprise City Creamery). Pleas of guilty. Fines, \$75. (F. & D. no. 34077. Sample no. 11110-B.)

This case was based on a shipment of butter which contained less than 80 percent of milk fat.

On October 17, 1935, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Perry J. Bradley and Vincent Michalak, copartners, trading as the Enterprise City Creamery, Enterprise, Oreg., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about July 28, 1934, from the State of Oregon into the State of Washington of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by the act of March 4, 1923, which the article purported to be.

On November 15, 1935, the defendants entered pleas of guilty and were fined \$75.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

25283. Adulteration of tomato pulp and tomato puree. U. S. v. Houston H. Craig (Lapel Canning Co.). Pleas of guilty. Fine, \$25. (F. & D. no. 34079. Sample nos. 19756-B to 19759-B, incl.)

This case was based on shipments of tomato pulp and tomato puree which contained an excessive amount of decomposed material.

On September 5, 1935, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Houston H. Craig, trading as the Lapel Canning Co., Lapel, Ind., alleging shipments by said defendant in violation of the Food and Drugs Act, on or about October 22, October 25, November 2 and November 15, 1934, from the State of Indiana into the State of Ohio, of quantities of tomato pulp and tomato puree which were adulterated.

The articles were alleged to be adulterated in that they consisted in whole or in part of decomposed vegetable substances.

On October 11, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$25.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

25284. Adulteration of tomato puree. U. S. v. Barker Canning Corporation. Pleas of guilty. Fine, \$100. (F. & D. no. 34080. Sample nos. 24015-B to 24018-B, incl.)

This case was based on interstate shipments of tomato puree which was found to contain excessive mold.

On August 5, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Barker Canning Corporation, Barker, N. Y., alleging shipment by said company in violation of the Food and Drugs Act, on or about October 3, October 19, and November 7, 1934, from the State of New York into the State of Pennsylvania, of quantities of

canned tomato puree which was adulterated. A portion of the product was labeled: "Sylvia Brand Tomato Puree Packed for J. M. Thompson & Co., Inc. Philadelphia, Pa." A portion was labeled: "Barker Tomato Puree Barker Canning Corp. Barker, New York." The remainder of the product was unlabeled and was invoiced as tomato puree.

The article was alleged to be adulterated in that it consisted in whole and in part of a decomposed vegetable substance.

On October 21, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$100.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

25285. Misbranding of cottonseed meal. U. S. v. Temple Cotton Oil Co. Plea of guilty. Fine, \$25. (F. & D. no. 34087. Sample no. 8167-B.)

The product in this case contained a smaller percentage of protein than declared on the label.

On July 2, 1935, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Temple Cotton Oil Co., a corporation, Ashdown, Ark., alleging shipment by said company in violation of the Food and Drugs Act, on or about July 14, 1934, from the State of Arkansas into the State of Kansas, of a quantity of cottonseed meal that was misbranded. The article was labeled in part: (Tag) "Tranco Brand 43% Protein Cottonseed Cake or Meal * * * Protein, not less than 43% * * * Manufactured By Transit Milling Co. Sherman, Texas—Galveston, Texas—Cairo, Illinois."

The article was alleged to be misbranded in that the statements, "43% Protein * * * Guaranteed Analysis Protein, not less than 43%", borne on the tags, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it contained less than 43 percent of protein.

On November 11, 1935, a plea of guilty was entered on behalf of said defendant company, and the court imposed a fine of \$25.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

25286. Misbranding of barley feed. U. S. v. H. C. Knoke & Co. Plea of guilty. Fine, \$50 and costs. (F. & D. no. 34091. Sample no. 8341-B.)

This product contained a smaller percentage of crude protein than declared on the label.

On July 12, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against H. C. Knoke & Co., a corporation, Chicago, Ill., alleging shipment by said company, in violation of the Food and Drugs Act, on or about January 23, 1935, from the State of Illinois into the State of Maryland of a quantity of barley feed which was misbranded. The article was labeled in part: (Tag) "Barley Feed Guaranteed Analysis Crude Protein 14.00% * * * Manufactured by H. C. Knoke & Co. Chicago, Ill."

The article was alleged to be misbranded in that the statement, "Guaranteed Analysis Crude Protein 14.00%", borne on the tags, was false and misleading and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it contained less than 14 percent of protein.

On October 22, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$50 and costs.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

25287. Adulteration of frozen whole eggs. U. S. v. 345 Cans of Frozen Whole Eggs. Consent decree of condemnation and forfeiture. Product released under bond for reconditioning. (F. & D. no. 34985. Sample no. 320-B.)

This case involved interstate shipments of frozen whole eggs which were found to be in part decomposed.

On January 22, 1935, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 345 cans of frozen whole eggs at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about December 26, 1934, and January 8, 1935, by the Washington Cooperative Egg & Poultry Association, from Seattle, Wash., and that it was adulterated in violation of the Food and